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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/526,100	03/15/2000	Steven Sheppard	6019.3026	9168
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26291      7590      05/24/2006

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EXAMINER
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USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/526,100

Applicant(s)

SHEPPARD ET AL.

Examiner

Joseph G. Ustaris

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the amendment dated 14 March 2006 in application 09/526,100. Claims 39-45 are pending. Claims 39 and 44 are amended.

The objection to claim 33 is now withdrawn in view of the amendments.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez (US005812184A).

Regarding claim 39, Martinez discloses the IR module 24 (optical receiver for decoding the...corresponding pulse train) sends the optical signal to an AND gate 59 (bias switch...to the pulse train) and the signal is sent to the modulator 65 and oscillator 63 (column 9, lines 8-20, figure 6); the combination of the modulator 65, oscillator 63, and crystal 61 reads on the claimed oscillator that modulates a signal to produce an RF signal. The AND gate receives pulse trains from the optical receiver 24 that are logic high "1's" and output the logic high to the modulator 65, then the modulator 65, oscillator 63, and crystal 61 responds to the logic high pulse train and convert the signal into an

electrical signal, which meets the limitation on the optical receiver and the oscillator coupled to the bias switch.

Martinez discloses the TRM 22 connects to the television (column 8, lines 21-41; figures 4, 5). Martinez discloses an isolator 47 (column 9, lines 8-20), which meets the limitation on a diplex filter injecting in the direction of the residential gateway. However, Martinez does not disclose that the "bias switch" turns on and off solely in response to the pulse train.

Martinez does disclose that is system is able to send the viewer responses on a dedicated channel (See col. 5 lines 41-45). Official Notice is taken that is well known to have a dedicated channel for each viewer. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the cable television network disclosed by Martinez to have a dedicated channel for each viewer in order to provide a faster means of communicating responses to the central station.

Therefore, in a dedicated channel environment, the TDM slot selector would always provide a constant gating signal (since there is a dedicated channel instead of a time slot) so that the response data can be modulated onto the cable. The AND gate would only turn on when response data is present or "turns on and off solely in response to the pulse train".

Regarding claim 40, Martinez fails to disclose an attenuator connected between an oscillator and diplexer.

The examiner takes Official Notice that attenuators are notoriously well known in the art for attenuating a signal. It would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Martinez to have a attenuator between the oscillator and the diplexer filter in order to limit the signal coming into the oscillator to prevent the diplexer filter from injecting too large of a signal to the residential gateway.

Regarding claim 41, Martinez discloses the TRM 22 (optical conversion device, figures 6 & 4) is connected to a TV via converter box 18 and the user uses remote control 20 (column 8, lines 21-41); the receiver 49 of the TRM 22 detects the channel in which the receiver is tuned (column 8, lines 42-64), which meets the limitation on controlling the channel selection with the remote control.

Regarding claim 42, Martinez discloses the RF carrier generated by the oscillator 63 and crystal 61 is sent downlink on the cable 7 (media) via isolator 47 (diplexer filter) (column 9, lines 8-20). Martinez discloses the cable 7 connects to the CATV converter (figure 6) and the CATV converter is placed on top of the TV (figure 4) and receives signals from a network (figure 5), which meets the limitation on the diplexer filter injects the RF signal onto the media in the direction of the direction of a residential gateway that controls communications between the television and a telecommunications network.

Regarding claim 43, Martinez discloses the stand-alone response module 22 is placed on top of TV and uses a coaxial cable (figures 4, 5; column 8, lines 22-41).

Regarding claims 44, the limitations in claim 44 have been met in claims 39 and 41-43 rejections.

Regarding claim 45, the limitations in claim 45 have been met in claim 40 rejection.

***Response to Arguments***

3. Applicant's arguments with respect to claims 39-45 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***


4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JGU  
May 17, 2006

  
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SUPERVISORY PATENT EXAMINER  
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